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December 16, 1985

CONGRESSIONAL RECORD — Extension Remark

E 5781

entitled "Department of Defense Intelligence Commercial Entities," in part 1 of Subtitle A of title 10, United States Code, and makes conforming amendments to tables of chapters in title 10. Section 3 provides that the amendments made by the legislation to title 10 take effect ninety days after enactment of the legislation.

The provisions of chapter 19 of title 10 enacted by Section 2 of the bill are explained below.

Section 391

Subsection 391(a)(1) grants to the Secretary of Defense the authority, with the concurrence of the Attorney General and the Director of Central Intelligence, to establish and operate commercial entities to provide cover for foreign intelligence collection activities of the Department of Defense.

The requirement for the concurrence of the Attorney General ensures an independent high-level legal review of plans for establishment and operation of a DOD intelligence commercial entity, and ensures the harmony of the plans with the intelligence, counterintelligence, and law enforcement functions of components of the Department of Justice. The requirement for the concurrence of the Director of Central Intelligence ensures that the plans will be consistent with national intelligence needs and ensures the harmony of the plans with the intelligence, counterintelligence and special activities of other elements of the United States Intelligence Community.

To exercise his authority to establish a commercial entity, the Secretary of Defense must certify in writing that establishment and operation of that entity is essential to the conduct of an authorized foreign intelligence collection activity of the Department of Defense. Thus, the Secretary may authorize establishment of a commercial entity only when no reasonable and effective alternative method exists for carrying out an authorized DOD foreign intelligence collection activity.

The Secretary may initially authorize the establishment and operation of a commercial entity for any period not to exceed two years.

Subsection 391(a)(2) permits the Secretary of Defense to renew the authority to operate a commercial entity at the expiration of the previous period for which he has authorized its operation. The renewal requires the concurrence of the Attorney General and the Director of Central Intelligence and the written certification of the Secretary of Defense that the operation of the entity is essential to the conduct of an authorized foreign intelligence collection activity of the Department of Defense. The Secretary may renew the authority to operate the commercial entity for any period not to exceed two years. The number of successive periods for which operation of the commercial entity may be authorized is not limited.

Subsection (b) provides that the Secretary of Defense may terminate a commercial entity at any time. His authority to terminate a commercial entity is not conditioned upon any concurrence or certification.

Section 392

Section 392 grants to the Secretary of Defense authority to acquire, use and dispose of items needed in the establishment, operation and termination of DOD intelligence commercial entities. The broad authority granted ensures that the Secretary can provide the necessary administrative support for such commercial entities.

In addition to requiring administrative support common to any governmental organization, such as workspace, equipment, and

**DEFENSE INTELLIGENCE
COMMERCIAL ENTITIES ACT**

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WHITEHURST. Mr. Speaker, on December 16, 1985, I introduced H.R. 3963, the Defense Intelligence Commercial Entities Act. To assist those who review the legislation, I am inserting the section-by-section explanation of the legislation in the CONGRESSIONAL RECORD:

**DEFENSE INTELLIGENCE COMMERCIAL ENTITIES
ACT**

SECTION-BY-SECTION EXPLANATION

The bill consists of three sections. Section 1 provides that the short title of the Act is the "Defense Intelligence Commercial Entities Act." Section 2 enacts a new chapter 19,

99TH CONGRESS
1ST SESSION

H. R. 3963

To provide authority to the Secretary of Defense to establish and operate commercial entities to provide cover for Department of Defense foreign intelligence collection activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 1985

Mr. WHITEHURST introduced the following bill; which was referred to the Committees on Armed Services and the Permanent Select Committee on Intelligence

A BILL

To provide authority to the Secretary of Defense to establish and operate commercial entities to provide cover for Department of Defense foreign intelligence collection activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Defense Intelligence
4 Commercial Entities Act".

5 SEC. 2. (a) Subtitle A of title 10, United States Code is
6 amended by adding at the end of part I the following new
7 chapter: